



POLICE DEPARTMENT

March 23, 2018

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In the Matter of the Charges and Specifications :

- against - :

Detective Larry Maraj :

Tax Registry No. 927129 :

19th Precinct Detective Squad :

Case No.

2016-16473
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At: Police Headquarters
One Police Plaza
New York, New York 10038

Before: Honorable Jeff S. Adler
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Anna Krutaya, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: Marissa Gillespie, Esq.
Karasyk & Moschella, LLP
233 Broadway – Suite 2340
New York, NY 10279

To:

HONORABLE JAMES P. O'NEILL
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NEW YORK 10038

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CHARGES AND SPECIFICATIONS

1. Said Detective Larry Maraj, while assigned to Manhattan North Narcotics Bureau, on or about February 9, 2016, engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Detective did wrongfully sign a legal document (supporting deposition) needed for criminal prosecution on behalf of another Member of Service.

P.G. 203-10 Page 1, Paragraph 5

GENERAL REGULATIONS -
PROHIBITED CONDUCT

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on February 28, 2018. Respondent, through his counsel, entered a plea of Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review. After considering the evidence, I find that no mitigation is warranted, and recommend that Respondent forfeit thirty (30) vacation days.

ANALYSIS

This case involves preparation of a criminal court complaint and supporting deposition for a misdemeanor narcotics arrest on February 3, 2016. Respondent, as the arresting officer, needed to sign the complaint. His colleague, Detective Duarte, needed to sign a supporting deposition, since he, and not Respondent, witnessed the apprehension of the arrestee and the recovery of property. On February 9, Respondent reviewed and signed the complaint, but Detective Duarte was out in the field and unavailable to sign the deposition. Instead, Respondent read the information over the phone to Detective Duarte, who then asked Respondent to sign the deposition on his behalf. Respondent did so, without indicating that he was the one signing for Detective Duarte, and without notifying the prosecutor what had occurred.

Respondent testified that on February 9, the assigned prosecutor for the drug arrest repeatedly called him on his cell phone regarding the criminal court complaint for that case. The

complaint had been redrafted, and the prosecutor needed Respondent to sign the complaint, and Detective Duarte to sign the supporting deposition. The prosecutor informed Respondent that there was some urgency involved: the signed documents needed to be faxed back to the prosecutor by 1700 hours or the defendant would be released from jail. Respondent explained to the prosecutor that he and Detective Duarte were out in the field on a buy-and-bust operation, and arranged for her to fax the documents to the nearby 34th Precinct, which they would sign upon their return to the stationhouse. (Tr. 13-15, 34-37)

Some time that afternoon, Respondent arrived at the 34th Precinct. He read and signed the criminal court complaint. However, Detective Duarte, who was assigned to the prisoner van, was still out in the field with a prisoner, and unable to come to the precinct at that time. Respondent testified that since the prosecutor was so insistent about getting the paperwork returned in a timely manner, he agreed to sign the supporting deposition on Detective Duarte's behalf. Specifically, at 1435 hours, Respondent twice read him the complaint information over the phone, and Detective Duarte stated that he had been dealing with the prosecutor all week and it was "perfect."¹ Detective Duarte asked Respondent to sign his name on the supporting deposition, and Respondent did so, without any indication that he was signing on his colleague's behalf. He then faxed the papers back to the prosecutor at 1436 hours, without informing her that he had signed Detective Duarte's name. (Tr. 15-20, 31-33, 38-39)

Respondent insisted it was not his intention to mislead; rather, he thought he was being helpful to the prosecutor, who repeatedly stressed the urgency of getting the signed documents back to her. At the time, he thought he was doing the right thing. But in hindsight, Respondent acknowledged that it was a mistake to sign someone else's name on the supporting deposition,

¹ As it turned out, the complaint was not perfect: there was an error regarding the date of the incident, which neither Respondent nor Detective Duarte caught. (Tr. 41-42)

and he wished that he had waited for Detective Duarte to come to the stationhouse. (Tr. 20-21, 31, 35, 44)

Respondent also testified about the hardship he will suffer if he were to forfeit thirty (30) vacation days in this case. Specifically, he has a [REDACTED] alone in [REDACTED]. A week before this trial, there was a stretch of almost four days where Respondent was unable to contact or locate [REDACTED]. Respondent is worried and feels the need to be there with [REDACTED] but he won't be able to do so if he loses the thirty (30) vacation days recommended by the Advocate. Respondent is concerned that if an emergency arises and he needs to go to [REDACTED] he will be suspended for being AWOL. He consulted with employee relations, but was told that the circumstances were not exigent. Respondent acknowledged that he also declined a revised offer from the Advocate that would have resulted in a penalty of suspension days in lieu of vacation days. (Tr. 26-28, 46)

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on September 29, 2000. Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum. Respondent has no disciplinary record. He has received four medals for Excellent Police Duty.

The Advocate asks that Respondent forfeit thirty (30) vacation days. That is the same penalty that Detective Duarte accepted as part of a plea agreement under *Disciplinary Case No. 2016-16474* (Aug. 24, 2017). Respondent noted that Detective Duarte entered his plea at a time where he was on a promotion list, suggesting that may have been a motivating factor. However, that penalty appears to be reasonable under the circumstances, and the Police Commissioner

approved that disposition. Moreover, Detective Duarte was arguably less culpable than Respondent, since there was no indication that he knew that Respondent did not make a notation on the deposition that he was signing for Detective Duarte, or that Respondent did not otherwise make the prosecutor aware. On these facts, Respondent is not deserving of a lesser penalty than that received by Detective Duarte. See also *Disciplinary Case No. 2012-8590* (Oct. 28, 2013) (10-year officer with no disciplinary record forfeited thirty (30) vacation days after a mitigation hearing for signing his own name to a supporting deposition that should have been signed by an undercover officer).

In support of mitigation, Respondent explained that he was trying to accommodate the needs of the prosecutor, who repeatedly reminded him of the urgency to get the documents signed. However, that urgency did not excuse Respondent's conduct in this case. Respondent exercised poor judgment in agreeing to sign Detective Duarte's name to the supporting deposition. Respondent signed his colleague's name and faxed the document back to the prosecutor at 1436 hours, almost two-and-one half hours before the deadline of 1700 hours. Detective Duarte was only about four or five city blocks from the precinct, awaiting a confirmatory show-up on his prisoner. Respondent could either have waited longer for Detective Duarte to return to the stationhouse, or arranged to have someone bring the documents to Detective Duarte. Instead, he chose to sign his colleague's name to a sworn document, without making any indication that he was signing on Detective Duarte's behalf.

Respondent also asks the court to take into account his [REDACTED] situation, and his inability to be with [REDACTED] in [REDACTED]. Indeed, the Advocate's office acknowledged the difficulty of Respondent's situation, and offered him a revised plea offer that involved suspension days in lieu of vacation days, but Respondent, as was his right, chose to reject that offer. As such, he remains in the same difficult situation regarding his ability to be with [REDACTED].


This tribunal is sympathetic to Respondent's predicament with respect to [REDACTED] but is not persuaded that it forms the basis for a mitigated penalty here. Respondent deliberately signed another detective's name on an official document, but did not indicate that he was signing on his colleague's behalf. He claimed at trial that at the time he did so, he believed he was doing the right thing. However, Respondent also did not inform the prosecutor that he was signing for his colleague, which suggests to this tribunal that Respondent, an experienced detective with 17 years of service, was not conducting himself in accordance with his training and experience. Respondent chose to assist Detective Duarte in taking an ill-advised shortcut, and there must be some accountability for his actions, in light of the Department's uncompromising stance on the importance of integrity and truthfulness. Taking into account all the circumstances in this matter, including the case precedent, I recommend that Respondent forfeit thirty (30) vacation days.

Respectfully submitted,



Jeff S. Adler
Assistant Deputy Commissioner Trials

APPROVED

JUN 22 2018

JAMES P. O'NEILL
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
DETECTIVE LARRY MARAJ
TAX REGISTRY NO. 927129
DISCIPLINARY CASE NO. 2016-16473

Respondent was appointed to the Department on September 29, 2000.

On his last three annual performance evaluations, Respondent received overall ratings of 4.0 "Highly Competent" in 2016, 2015, and 2014. Respondent has been awarded four medals for Excellent Police Duty.

[REDACTED]

Respondent has no disciplinary record.

For your consideration.

Jeff S. Adler
Assistant Deputy Commissioner Trials